



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 1534-99

16 July 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 July 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 9 November 1971 for four years at age 17. The record reflects that you were advanced to LCPL (E-4) and served for 23 months without incident. However, during the three month period from October to December 1973 you received two nonjudicial punishments (NJP) for possession of 13.6 grams of marijuana, a one day period of unauthorized absence, and violation of a general order by wearing a field jacket with civilian attire.

On 20 December 1973, you were convicted by civil authorities of possession of a controlled substance. You were sentenced to confinement for 12-24 months. However, the sentence was suspended and you were placed on probation for two years and ordered to pay a \$250 fine and court costs.

On 19 April 1974 you were convicted by a summary court-martial of a 49 day period of UA and wrongful appropriation of a floor lamp.

You were sentenced to confinement at hard labor for 20 days.

On 14 May 1974 you were notified that you were being recommended for an undesirable discharge by reason of misconduct due to frequent involvement of a discreditable nature with civil and military authorities, and civil conviction. You appeared before an administrative discharge board (ADB) with counsel on 24 June 1974. The ADB found that you had committed misconduct and recommended that you be separated with an undesirable discharge by reason of misconduct due to civil conviction. The discharge authority approved the proceedings and directed separation with an undesirable discharge. You were so discharged on 26 July 1974.

Applicable regulations provided that a Marine convicted by civil authorities for an offense which involved moral turpitude, or for which the maximum permissible punishment under the Uniform Code of Military Justice is confinement in excess of one year, could be administratively discharged, as undesirable, by reason of misconduct.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, good post-service conduct, certificates of appreciation for your work with the Boy Scouts, regret for the actions which led to your discharge, and the fact that it has been 25 years since you were discharged. The Board noted your contention that you lost interest in the Marine Corps when you were not allowed to work in the field for which you were qualified. The Board concluded that the foregoing factors and contention were insufficient to warrant recharacterization of your discharge given your record of two NJPS, one of which was possession of marijuana; a summary court-martial conviction for a prolonged period of UA, and a civil conviction for possession of marijuana. The fact that you lost interest in the Marine Corps because you were not working in your field did not justify or sufficiently mitigate the foregoing misconduct. Most Marines are required to perform duties outside their particular specialties at one time or another during an enlistment. The Board noted your work with the Boy Scouts but did not find it sufficiently mitigating to overcome the misconduct which led to your discharge. The Board believed that you were guilty of too much misconduct in 32 months service to warrant recharacterization to honorable or under honorable conditions. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director